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**By ECF**

Hon. Philip M. Halpern, U.S.D.J.  
United States Courthouse  
300 Quarropas Street  
White Plains, NY 10601

Re: **DEFENDANT'S LETTER MOTION TO STRIKE  
DOCKET NOS. 85 AND 86 FILED IN ERROR AND FOR LEAVE  
TO REFILE UNDER SEAL**

*Ronald Johnston v. New York Power Authority; 7:20-cv-04224-PMH*

Dear Judge Halpern:

Please be advised that my firm represents defendant New York Power Authority ("NYPA") in the above-referenced action. We respectfully submit this letter motion to strike and remove Docket Number 85 (Defendant's Memorandum of Law in Opposition to Plaintiff's Motion *in Limine*) and Docket Number 86 (Defendant's Declaration in Opposition to Plaintiff's Motion *in Limine*) and the accompanying exhibits (collectively, "Defendant's Opposition Papers"), from the Docket, as they were filed publicly in error. Defendant further seeks leave to refile the aforementioned documents under seal in accordance with Plaintiff's Letter Motion, dated November 29, 2021, seeking leave to file his entire motion *in limine* under seal.

In the process of filing Defendant's Opposition Papers via ECF on December 6, 2021, this office believed that it selected the option to file the documents under seal. Upon review of the docket by Plaintiff's counsel this morning, it was brought to our attention that the documents were inadvertently filed publicly. As such, we respectfully request that Docket Numbers 85 and 86 be removed from the docket, and that Defendant be afforded leave to re-file its Opposition Papers, namely Exhibits A and B to Docket No. 86, under seal.

Because the Court has not yet ruled on Plaintiff's November 29, 2021 Letter Motion to file under seal, Defendant intended to file its Opposition Papers under seal. Particularly, according to Plaintiff's Letter Motion, the expert report of Stuart Kleinman, M.D. (attached as Exhibit A to Docket No. 86), and the expert report of Susan J. Fiester, M.D. (attached as Exhibit B to Docket No. 86), contain references to Plaintiff's confidential medical records, treatment and diagnoses. Plaintiff also contends that the Transcript of the Court Conference held on August 18<sup>th</sup> (attached as Exhibit E to Docket No. 86), should also be sealed as it contains references to Plaintiff's confidential information. Defendant contends that the August 18<sup>th</sup> Transcript is a public document

Application granted.

The Clerk of the Court is respectfully directed to strike Doc. 85 and Doc. 86 (and all of the exhibits annexed thereto) from the docket, but retain the summary docket text for the record. Defendant is granted leave to re-file the aforementioned documents.

The Clerk of the Court is respectfully directed to terminate the motion sequences pending at Doc. 87.

SO ORDERED.

A handwritten signature in black ink, appearing to read 'PHM', with a long horizontal stroke extending to the right.

Philip M. Halpern  
United States District Judge

Dated: White Plains, New York  
December 8, 2021

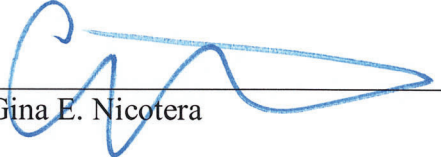
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and has been filed as an exhibit to prior motions without objection from Plaintiff. Accordingly, Defendant does not believe it is necessary to file this document under seal.

Thank you for your prompt attention to this matter.

Respectfully submitted,

BLEAKLEY PLATT & SCHMIDT, LLP

BY:   
Gina E. Nicotera

cc: Michael R. Gordon, Esq. (via ECF and Email)